

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#:
DATE FILED: 12/2/19

UNITED STATES OF AMERICA

- v. -

VIANNEY CAPELLAN,

Defendant.

:
: CONSENT PRELIMINARY ORDER
: OF FORFEITURE/
: MONEY JUDGMENT

: S1 18 Cr. 540 (CM)

WHEREAS, on or about July 30, 2018, VIANNEY CAPELLAN
(the "defendant"), was charged in a one-count Indictment, S1 18
Cr. 540 (CM) (the "Indictment"), with conspiracy to commit wire
fraud, in violation of Title 18, United States Code, Section 1349
(Count One);

WHEREAS, the Indictment included a forfeiture allegation
as to Count One of the Indictment, seeking forfeiture to the United
States, pursuant to Title 18, United States Code, Section
981(a)(1)(C) and Title 28 United States Code, Section 2461(c), of
any and all property, real and personal, that constitutes or is
derived from proceeds traceable to the offense charged in Count
One of the Indictment, including but not limited to a sum of money
in United States currency representing the amount of proceeds
traceable to the commission of the offense charged in Count One of
the Indictment that the defendant personally obtained;

WHEREAS, on or about November 26, 2019, the defendant
pled guilty to Count One of the Indictment, pursuant to a plea
agreement with the Government, wherein the defendant admitted the

forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), a sum of money equal to \$ 744,725 in United States currency, representing proceeds traceable to the offense charged in Count One of the Indictment;

WHEREAS, the defendant consents to the entry of a money judgment in the amount of \$ 744,725 in United States currency representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the defendant personally obtained; and

WHEREAS, the defendant admits that, as a result of acts and/or omissions of the defendant, the proceeds traceable to the offense charged in Count One of the Indictment that the defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Geoffrey S. Berman, United States Attorney, Assistant United States Attorney, Timothy V. Capozzi of counsel, and the defendant, and his counsel, Lawrence Fisher, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the defendant pled guilty, a money

judgment in the amount of \$744,725 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the defendant personally obtained, shall be entered against the defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, VIANNEY CAPELLAN, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made payable, in this instance to the "United States Marshals Service", and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By: 

TIMOTHY V. CAPOZZI
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212)637-2404

11/22/19
DATE

VIANNEY CAPELLAN

By: 

VIANNEY CAPELLAN

11/26/19
DATE

By: 

LAWRENCE FISHER, ESQ.
Attorney for Defendant
The Woolworth Building
233 Broadway
Suite 2348
New York, NY 10279

11/26/19
DATE

SO ORDERED: 

HONORABLE COLLEEN MCMAHON
UNITED STATES DISTRICT JUDGE

12/2/2019
DATE